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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,210

02/06/2004

Christian S. Nielsen

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6908

27581 7590 04/18/2007  
MEDTRONIC, INC.  
710 MEDTRONIC PARK  
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EXAMINER

JOHNSON, SHEVON ELIZABETH

ART UNIT

PAPER NUMBER

3766

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,210	<b>Applicant(s)</b> NIELSEN ET AL.	
	<b>Examiner</b> Shevon E. Johnson	<b>Art Unit</b> 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the use of the phrase "The invention is". Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norton et al. (U.S. Patent Pub. 2004/0243183) in view of Muffoletto et al. (U.S. Patent No. 5,926,362).

In regards to claims 1-15, Norton '183 discloses the system substantially as claimed comprising medical device 1 (pg. 1-2, [0012-0028], fig. 1) including circuitry to control delivery of electrical therapy to a patient and a wet tantalum capacitor to store charge for use in the delivery of electrical therapy (pgs. 2-4, [0029-0052]). Further, Norton '183 teaches the process of anodizing the anode within the encasement shells and providing a cathode and separator material (pg. 3, [0049]) disposed between the anodes within encasement shells. Norton doesn't disclose a detail description of an electrical pin or a feedthrough or specific capacitor geometries.

However, Muffoletto teaches a hermetically sealed capacitor comprising: a first and second anode 42 mechanically coupled to and electrochemically anodized (col. 4, line 59 - col. 5, line 3) within a first 132

and second 134 encasement shells; and a cathode 12 (col. 4, line 55 – col. 5, line 4) disposed between the first and second anode 42 and within the first 132 and second 134 encasement shells; a separator material (col. 5, lines 4-32) sandwiched between the first and second anodes and within the first and second encasement shells to electrically separate the cathode from the anodes (col. 8, line 6 – col. 9, line 16; figs. 12-15). The Examiner notes that the figures show a configuration wherein a cathode sandwiched between a first and second anode. However, Muffoletto teaches that the configuration can be manipulated (col. 2, lines 39-54) by changing the metals used to for the anode (col. 4, lines 55-59), cathode (col. 4, lines 4-15) and the encasement (col. 3, lines 15-20).

Further, Muffoletto teaches a capacitor comprising: an electrical pin 34 and a feedthrough element 56 formed through the encasement shells for contact with the anode and cathode respectively (col. 5, line 47 – col. 6, line 40; figs. 4-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made that Norton's capacitor would comprise an electrical pin and a feedthrough element formed through the encasement shells for contact with the anode and cathode respectively as taught by Muffoletto in order to provide a transfer charge to components within the medical device.

**5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harguth et al. (U.S. Patent No. 6,283,985) in view of Muffoletto et al. (U.S. Patent No. 5,926,362) or Mileham et al. (U.S. Patent No. 6,283,985).**

In regards to claims 1-15, Harguth discloses the system substantially as claimed comprising medical device 100 including circuitry to control delivery of electrical therapy to a patient and a wet tantalum capacitor 132 to store charge for use in the delivery of electrical therapy (col. 2, line 38 – col. 3, line 56; fig. 1).

Muffoletto teaches a hermetically sealed capacitor comprising: a first and second anode 42 mechanically coupled to and electrochemically anodized (col. 4, line 59 - col. 5, line 3) within a first 132 and second 134 encasement shells; and a cathode 12 (col. 4, line 55 – col. 5, line 4) disposed between the first and second anode 42 and within the first 132 and second 134 encasement shells; a separator material (col. 5, lines 4-32) sandwiched between the first and second anodes and within the first and second encasement shells to electrically separate the cathode from the anodes (col. 8, line 6 – col. 9, line 16; figs. 12-15). The Examiner notes that the figures show a configuration wherein a cathode sandwiched between a first and

second anode. However, Muffoletto teaches that the configuration can be manipulated (col. 2, lines 39-54) by changing the metals used to for the anode (col. 4, lines 55-59), cathode (col. 4, lines 4-15) and the encasement (col. 3, lines 15-20).

Further, Muffoletto teaches a capacitor comprising: an electrical pin 34 and a feedthrough element 56 formed through the encasement shells for contact with the anode and cathode respectively (col. 5, line 47 – col. 6, line 40; figs. 4-7).

Mileham discloses a first anode 12 mechanically coupled to and electrochemically anodized (col. 2, lines 50-65) within a first encasement shell 26; a second anode 14 mechanically coupled to and electrochemically anodized within a second encasement shell 30; and a cathode 34 disposed between the first anode and the second anode and within the first and second encasement shells; a separator material (col. 4, lines 11-39) sandwiched between the first and second anodes and within the first and second encasement shells to electrically separate the cathode from the anodes (col. 2, line 16 – col. 6, line 3; figs. 1-3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Harguth substitute the capacitor as taught by Muffoletto or Mileham in order to provide a small, lightweight implantable device that does not compromise power.

#### ***Citation of Relevant Prior Art***

6. The prior art made of record and not relied upon but considered pertinent to applicant's disclosure includes Sherwood (U.S. Patent Pub. 2006/0023400), Harrington et al. (U.S. Patent No. 5,715,133), Crespi (U.S. Patent No. 6,130,005), Norton et al. (U.S. Patent No. 6,995,971), Pless et al. (U.S. Patent No. 5,131,388), O'Phlelan et al. (U.S. Patent Pub. 2003/0058606) and Keister et al. (U.S. Patent No. 4,830,940). The references listed above disclose the use of hermetically sealed capacitors capable of being used in implantable medical devices.

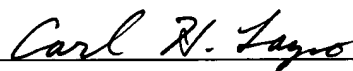
**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shevon Johnson whose telephone number is (571) 272-2010. The examiner can normally be reached on M-F (8 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shevon Johnson, Art Unit 3766



CARL LAYNO  
PRIMARY EXAMINER

*ACTING SPE, AU 3766*